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Honorable Mary Jo Heston
Chapter: 7
Hearing Location: Tacoma
Hearing Date: 5/04/2023
Hearing Time: 9:00 AM
Response Date: 4/27/2023

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UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON - TACOMA DIVISION

In re

JOEY JASON WEINKAUF AKA JOE
WEINKAUF,

Debtor.

Case No. 22-41671-MJH

Chapter 7

**MOTION FOR RELIEF FROM
AUTOMATIC STAY
(Unlawful Detainer)**

HPA Borrower 2016-2 ML LLC ("Movant") submits the following memorandum of points and authorities in support of its Motion for Relief from Automatic Stay.

I. STATEMENT OF THE ISSUE

Whether Movant is entitled to relief from the automatic stay of 11 U.S.C. § 362.

RELIEF FROM STAY - CAUSE
DEBTOR HAS NO INTEREST IN THE SUBJECT PROPERTY AND IS DELINQUENT ON
HIS LEASE

1. On or about, December 22, 2022, Joey Jason Weinkauf ("Debtor") filed a voluntary petition under Chapter 7 of the Bankruptcy Code, and Kathryn A Ellis was appointed as Chapter 7 Trustee. As a result of said filing, certain acts and proceedings against Debtor and the bankruptcy estate are stayed as provided in 11 United States Code § 362.

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2. Movant and Debtor and Tracy Weinkauff entered into a Residential Lease Agreement commencing 10/1/2021. Monthly base rent payments come due on the 1st of the month every month in the amount of \$4,890.00. A copy of the Residential Lease Agreement is attached to the Declaration in Support of Motion for Relief from Automatic Stay (“Declaration”) as **Exhibit A** and incorporated herein by reference.

3. As of 2/21/2023, the balance due on the Residential Lease Agreement is in the amount of \$44,844.70. A copy of the Residential Ledger is attached to the Declaration in Support of Motion for Relief from Automatic Stay (“Declaration”) as **Exhibit B** and incorporated herein by reference.

4. Pursuant to 11 United States Code section 362(d)(1), cause for relief from the automatic stay exists because, as of the petition date, Debtor had no right to continued occupancy of the premises as a result of the delinquency on the contract. Movant is seeking Relief from the Stay in order to proceed with enforcing its state law remedies in regard to the delinquent contract.

WHEREFORE, Movant respectfully prays for an order of this Court as follows:

1. Terminating the automatic stay of 11 U.S.C. 362(a) to allow Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to proceed with an unlawful detainer action against the debtors and obtain possession of the Property;

2. That the 14-day stay described by Bankruptcy Rule 4001(a)(3) be waived;

3. That the order be binding in any and all chapters following any subsequent conversion of this case under a different chapter of Title 11 of the United States Code, unless a specific exception has been provided herein; and

4. For such other and further relief as the court deems just and proper.

ALDRIDGE PITE, LLP



Dated: March 28, 2023

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